

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Money Transmitter License of: No. 07F-BD019-BNK

3 **CONTINENTAL EXPRESS MONEY ORDER**
4 **OF ARIZONA, INC.**

4 1108 East 17th Street
5 Santa Ana, CA 92701

CONSENT ORDER

6
7 Petitioner.

7 On September 20, 2006, the Arizona Department of Financial Institutions ("Department")
8 issued a Notice of Hearing alleging that Petitioner had violated Arizona law. Wishing to resolve this
9 matter in lieu of an administrative hearing, Petitioner does not contest the following Findings of Fact
10 and Conclusions of Law, and consents to the entry of the following Order.

11 **FINDINGS OF FACT**

12 1. Petitioner Continental Express Money Order Of Arizona, Inc. ("CEMOOA") is an
13 Arizona corporation authorized to transact business in Arizona as a money transmitter, license
14 number MT-0010143, within the meaning of A.R.S. §§ 6-1201, *et seq.* The nature of CEMOOA's
15 business is that of a money transmitter within the meaning of A.R.S. § 6-1201(11).

16 2. Fred Kunik ("Mr. Kunik") is the President of CEMOOA.

17 3. An onsite examination of CEMOOA, conducted by the Department on February 27,
18 and the subsequent authorized delegate visits conducted on March 28 through 29 2006, revealed that
19 CEMOOA:

20 a. Failed to prominently display its authorized delegate notices, as prescribed by
21 the Superintendent, at six (6) authorized delegate locations; specifically:

- 22 i. J & M, 1350 W. University Dr., Mesa, AZ;
23 ii. Chandler Mart, 1026 N. Arizona Ave., Chandler, AZ;
24 iii. Scottsdale Mini, 6842 E. Thomas Rd., Scottsdale, AZ;
25 iv. Country Market, 6108 W. Northern, Glendale, AZ;
26 v. RIA AZ, 11922 W. Thunderbird Rd., El Mirage, AZ; and

- 1 vi. Jan's Market, 11916 W. Thunderbird Rd., El Mirage, AZ;
- 2 b. Failed to provide each authorized delegate with complete operating policies
- 3 and complete procedures sufficient to permit compliance with the provisions
- 4 of Title 13, Chapter 23 and Title 6, Chapter 12;
- 5 i. TASC, 5955 West Myrtle Ave., Glendale, AZ;
- 6 ii. Gilbert Convenience Mart, 118 N. Gilbert Rd., Gilbert, AZ;
- 7 iii. RIA AZ, 2846 W. Van Buren, Phoenix, AZ;
- 8 iv. Super Stop #1, 321 W. McKellips Rd., Mesa, AZ;
- 9 v. RIA AZ, 6550 W. Glendale, Glendale, AZ;
- 10 vi. Super Carniceria, 6309 W. Maryland Ave., Glendale, AZ;
- 11 vii. J & M 1350 W. University Dr., Mesa, AZ;
- 12 viii. Chandler Mart, 1026 N. Arizona Ave., Chandler, AZ;
- 13 ix. Scottsdale Mini, 6842 E. Thomas Rd., Scottsdale, AZ;
- 14 x. Country Market, 6108 W. Northern, Glendale, AZ;
- 15 xi. RIA AZ, 11922 W. Thunderbird Rd., El Mirage, AZ; and
- 16 xii. Jan's Market, 11916 W. Thunderbird Rd., El Mirage, AZ;
- 17 c. Failed to file duplicate SARs with the Arizona Attorney General's Office;
- 18 specifically:
- 19 i. Petitioner filed one (1) duplicate SAR with the Attorney General's
- 20 Office in 2004; and
- 21 ii. Petitioner filed zero (0) duplicate SARs with the Attorney General's
- 22 Office in 2005;
- 23 d. Failed to keep adequate records of customers' identities, occupations, social
- 24 security numbers, residences, and signatures involving transactions of
- 25 \$1,000.00 dollars or more; specifically:
- 26

- i. Petitioner failed to record all of the required customer's information in at least eighty eight (88) transactions;
 - ii. Petitioner ' authorized delegates use the "Record Keeping Form for Sales of Money Orders of \$3,000.00 to \$10,000.00" to record \$1,000.00 transactions. This defective form fails to include all of the necessary and required information; and
 - iii. Petitioner failed to correct this violation from its last examination;
- e. Violated an applicable law, rule, or order, which is grounds for license suspension or revocation; specifically:
- i. Petitioner failed to comply with all requirements of the Superintendent's final order No. 04F-BD083-SBD by:
 1. Failing to provide a status report on March 18, 2004 and subsequently providing said report 147 days late;
 2. Failing to design and implement an authorized delegate supervision program by May 2, 2004 and subsequently implemented said program 102 days late;
 - i. This program is insufficient because it fails to record the customer's necessary information for transactions of \$1,000.00 or more;
 3. Failing to use the necessary authorized delegate supervision program required by the Superintendent's Order;
 - i. There is no record of onsite training;
 - ii. There is no record of onsite visits or reviews; and
 - iii. There is no adequate implementation of a BSA / Anti-Money Laundering onsite review;

- 1 4. Failing to contact authorized delegates who conduct
2 transactions in which a report or record is required to ascertain
3 that the required reports or records have been made; and
4 5. Failing to adequately supervise its authorized delegates to
5 promote and ensure compliance;

- 6 i. At least twelve (12) authorized delegates are
7 violating numerous conditions set forth in Order
8 No. 04F-BD083-SBD.

9 4. Based upon the above findings, the Department issued and served upon CEMOOA an
10 Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order ("Cease
11 and Desist Order") on July 31, 2006.

12 5. On August 30, 2006, Petitioner filed a Request For Hearing to appeal the Cease and
13 Desist Order.

14 **CONCLUSIONS OF LAW**

15 1. Pursuant to A.R.S. §§ 6-1201, *et seq.*, the Superintendent has the authority and the
16 duty to regulate all persons engaged in the money transmitter business and with the enforcement of
17 statutes, rules, and regulations relating to money transmitters.

18 2. By the conduct, set forth above, CEMOOA violated the following:

- 19 a. A.R.S. § 6-1207(C) by failing to prominently display its authorized delegate
20 notices, as prescribed by the Superintendent, at authorized delegate locations;
21 b. A.R.S. § 6-1208(B) by failing to provide each authorized delegate with operating
22 policies and procedures sufficient to permit compliance with the provisions of
23 Title 13, Chapter 23 and Title 6, Chapter 12;
24 c. A.R.S. § 6-1241(B) by failing to file duplicate SARs with the Arizona Attorney
25 General's Office;

26 ...

- 1 d. A.R.S. § 6-1241(E) by failing to keep adequate records of customers' identities,
2 occupations, social security numbers, residences; and signatures involving
3 transactions of \$1,000.00 dollars or more; and
4 e. A.R.S. § 6-1210(5) by violating Order No. 04F-BD083-SBD.

5 3. Petitioner violated an applicable law, rule, or order, which is grounds for license
6 suspension or revocation pursuant to A.R.S. § 6-1210(5).

7 4. The violations, set forth above, constitute grounds for: (1) the issuance of an order
8 pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to
9 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
10 Superintendent, to correct the conditions resulting from the unlawful acts, practices, and
11 transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-132; (3) the
12 suspension or revocation of Petitioner's license pursuant to A.R.S. § 6-1210; and (4) an order or any
13 other remedy necessary or proper for the enforcement of statutes and rules regulating money
14 transmitters pursuant to A.R.S. §§ 6-123 and 6-131.

15 **ORDER**

16 1. CEMOOA shall immediately stop the violations set forth above in the Findings of
17 Fact and Conclusions of Law. CEMOOA:

- 18 a. Shall prominently display its authorized delegate notices, as prescribed by the
19 Superintendent, at authorized delegate locations;
20 b. Shall provide each authorized delegate with operating policies and procedures
21 sufficient to permit compliance with the provisions of Title 13, Chapter 23 and
22 Title 6, Chapter 12;
23 c. Shall file duplicate SARs with the Arizona Attorney General's Office;
24 d. Shall keep adequate records of customers' identities, occupations, social security
25 numbers, residences, and signatures involving transactions of \$1,000.00 dollars or
26 more; and

1 e. Shall comply with Order No. 04F-BD083-SBD and any other orders issued by the
2 Department.

3 2. CEMOOA shall design and implement, within 60 days of receipt of the examination
4 report, an adequate, authorized delegate supervision program that complies with A.R.S. §§ 6-1201,
5 *et seq.*, A.R.S. §§ 6-1241, *et seq.*, and any and all applicable laws and rules. Said program shall
6 include, but shall not be limited to:

- 7 a. Weekly money order sales reviews to identify any transactions requiring
8 record keeping for transactions of \$1,000.00 dollars, or transactions requiring
9 a CTR filing;
- 10 b. Contacting any authorized delegate who has conducted a transaction of
11 \$1,000.00 dollars, or aggregating \$3,000.00 dollars, or in which a report or
12 record is required to ascertain that the required reports or records have been
13 made; and
- 14 c. Onsite compliance training and onsite compliance review for all Arizona
15 authorized delegates within 90 days, and repeat onsite reviews of any
16 authorized delegates identified as non-compliant during the initial review or
17 through the weekly review of transactions. The follow-up review shall be
18 completed no later than 90 days from the initial review or discovery of any
19 non-compliance. Authorized delegates must be terminated if found to be non-
20 compliant in two (2) consecutive onsite reviews.

21 3. CEMOOA shall submit its supervision program to the Department with its response
22 to the examination report.

23 4. CEMOOA shall submit a status report to the Department with each quarterly report
24 that includes, but is not limited to: copies of all onsite review forms completed during the quarter
25 and the action taken to correction non-compliance issues. This requirement will continue until the
26 next scheduled examination and will be re-examined and modified, if necessary.

5. Continental Express Money Order Of Arizona, Inc. shall immediately pay to the Department a civil money penalty in the amount of forty-two thousand five hundred dollars (\$42,500.00).

6. The provisions of this Order shall be binding upon Petitioner, its employees, agents, and other persons participating in the conduct of the affairs of Petitioner.

7. This Order shall become effective upon service, and shall remain effective and enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated, or set aside.

SO ORDERED this 18th day of October, 2006.

Felicia Potellini

Felecia A. Rotellini
Superintendent of Financial Institutions

CONSENT TO ENTRY OF ORDER

1. Petitioner acknowledges that it has been served with a copy of the foregoing Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, has read the same, is aware of its right to an administrative hearing in this matter, and has waived the same.

2. Petitioner admits the jurisdiction of the Superintendent and consent to the entry of the foregoing Findings of Fact, Conclusions of Law, and Order.

3. Petitioner states that no promise of any kind or nature has been made to induce it to consent to the entry of this Order, and that it has done so voluntarily.

4. Petitioner agrees to cease from engaging in the violative conduct set forth above in the Findings of Fact and Conclusions of Law.

5. Petitioner acknowledges that the acceptance of this Agreement by the Superintendent is solely to settle this matter and does not preclude this Department, any other agency or officer of this state or subdivision thereof from instituting other proceedings as may be appropriate now or in the future.

1 6. Fred Kunik, on behalf of Continental Express Money Order Of Arizona, Inc.,
2 represents that he is the President, and that, as such, has been authorized by Continental Express
3 Money Order Of Arizona, Inc. to consent to the entry of this Order on its behalf.

4 7. Petitioner waived all rights to seek judicial review or otherwise to challenge or
5 contest the validity of this Cease and Desist Order.

6 DATED this 11th day of October, 2006.

7
8 By: 

Fred Kunik, President
Continental Express Money Order
of Arizona, Inc.

9
10
11 ORIGINAL of the foregoing filed this 18th
12 day of October, 2006, in the office of:

13 Felecia A. Rotellini
14 Superintendent of Financial Institutions
15 Arizona Department of Financial Institutions
16 ATTN: June Beckwith
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

17 COPY mailed same date to:

18 Daniel Martin, Administrative Law Judge
19 Office of the Administrative Hearings
1400 West Washington, Suite 101
20 Phoenix, AZ 85007

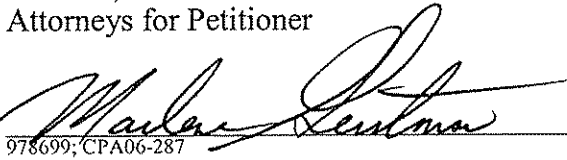
21 Craig A. Raby, Assistant Attorney General
22 Office of the Attorney General
1275 West Washington
23 Phoenix, AZ 85007

24 Robert D. Charlton, Assistant Superintendent
25 Stephen Rosenthal, Examiner in Charge
Arizona Department of Financial Institutions
26 2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

1 AND COPY MAILED SAME DATE by
2 Certified Mail, Return Receipt Requested, to:

3 Fred Kunik, President
4 Continental Express Money Order
5 Of Arizona, Inc.
6 1108 East 17th Street
7 Santa Ana, CA 92701

8 Michael J. Farrell, Esq.
9 JENNINGS, STROUSS & SALMON, P.L.C.
10 The Collier Center, 11th Floor
11 201 East Washington Street
12 Phoenix, Arizona 85004-2385
13 Attorneys for Petitioner

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